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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,312	08/24/2006	Volker Haag	40948	2603
116 7590 05/14/2010 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
HUDA, SAIED M				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
05/14/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,312

Applicant(s)

HAAG ET AL.

Examiner

SAEED M. HUDA

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-19 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-12, 14-19, 23-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The response filed on 03/09/2010 has been fully considered and entered into the record. Claim 27 is cancelled and the rejections applying to the cancelled claims withdrawn. Claims 1, 2, and 17 are amended. Claims 1-12, 14-19, and 23-26 are pending in the application.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- Group I, claim(s) 1-12, 14, 16, and 26 drawn to a method for producing concrete elements
- Group II, claim(s) 15, drawn to a semi-finished concrete product.
- Group III, claim(s) 17-19, 23-25, drawn to a module for producing concrete elements.

3. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature common to Groups I-III is the invention related to concrete elements where displacers that comprise either plastic balls or shells and are arranged in a lattice work. This cannot be a special technical feature under PCT Rule 13.2, because the element is known in the prior art.

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FR-A-2125534 discloses a module (2, 3, 4, 6, 7) for the production of concrete floors, comprising a plurality of adjacent displacers (3, line 3), the plurality of adjacent displacers (3) in each case being arranged in a latticework (2, 6, 7) composed of bars, and the lattice work being open to one side, the lattices adjoining this open side assuming an angle of about 90° with respect to the lattice opposite this open side (cf. lines 1-4).

Accordingly, the special technical feature linking the three inventions does not provide a contribution over the prior art, and no single general inventive concept exists. Therefore, restriction is appropriate.

4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Applicant is required to choose one species from species I and species II and to choose on species from species III and species IV.

The species are as follows:

- Species I: wherein the modules are produced from welded wire mesh sections that are cut
- Species II: where in the modules are produced from downwardly open lattice construction that respectively feature an essentially triangular construction on sides of the lattice-work
- Species III: the modules comprise shells

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. The claims are deemed to correspond to the species listed above in the following manner:

- Species I: wherein the modules are produced from welded wire mesh sections that are cut
- Species II: where in the modules are produced from downwardly open lattice construction that respectively feature an essentially triangular construction on sides of the lattice-work
- Species III: the modules comprise plastic parts
- Species IV: the modules comprise shells

The following claim(s) are generic: no claim is generic.

6. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The species have mutually exclusive special technical features, namely:

- Species I: wherein the modules are produced from welded wire mesh sections that are cut
- Species II: where in the modules are produced from downwardly open lattice construction that respectively feature an essentially triangular construction on sides of the lattice-work
- Species III: the modules comprise plastic parts

- Species IV: the modules comprise shells

Therefore, these species are not directed to a single general inventive concept.

7. A telephone call was made to Attorney Frank Jordan on 06/05/2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAEED M. HUDA whose telephone number is (571)270-5514. The examiner can normally be reached on 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KHANH NGUYEN/
Primary Examiner, Art Unit 1791

/SAEED M. HUDA/
Examiner, Art Unit 1791